



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration

Rockville, MD 20857

Re: CEDAX® (ORAL 1)

Docket No. 96E-0099

APR 10 1996

Stephen G. Kunin  
Deputy Assistant Commissioner for  
Patent Policy and Projects  
Office of the Assistant Commissioner for Patents  
U.S. Patent and Trademark Office  
Crystal Park Building 2, Suite 919  
Washington, D.C. 20231

#18

Dear Mr. Kunin:

This is in regard to the application for patent term extension for U.S. Patent No. 4,634,697 filed by Schering-Plough Corporation under 35 U.S.C. § 156. The human drug product claimed by the patent is CEDAX® (ceftibuten dihydrate), which was assigned New Drug Application (NDA) No. 50-686.

A review of the Food and Drug Administration's official records indicates that this product was subject to a regulatory review period before its commercial marketing or use, as required under 35 U.S.C. § 156(a)(4). Our records also indicate that it represents the first permitted commercial marketing or use of the product.

The NDA was approved on December 20, 1995, which makes the submission of the patent term extension application on February 12, 1996, timely within the meaning of 35 U.S.C. § 156(d)(1).

Should you conclude that the subject patent is eligible for patent term extension, please advise us accordingly. As required by 35 U.S.C. § 156(d)(2)(A) we will then determine the applicable regulatory review period, publish the determination in the Federal Register, and notify you of our determination.

Please let me know if we can be of further assistance.

Sincerely,

Ronald L. Wilson, Director  
Health Assessment Policy Staff  
Office of Health Affairs

cc: Thomas D. Hoffman  
Schering-Plough Corporation  
Patent Department (K-6-1-1990)  
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